

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KELLY JUNIOR-DONOHUE AS :  
INDIVIDUAL PLAINTIFF AND AS :  
REPRESENTATIVE OF SECTION 8 :  
ENHANCED VOUCHER TENANTS OR :  
WILL MAKE UP THIS CLASS ACTION :  
LITIGATION IN REGION II, :  
Plaintiff, :  
-against- :  
THE HON. MARCIA L. FUDGE AS :  
SECRETARY OF THE UNITED STATES :  
DEPARTMENT OF HOING AND URBAN :  
DEVELOPMENT, et. al., :  
Defendants. :  
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23-CV-2474 (VSB)

**ORDER**

VERNON S. BRODERICK, United States District Judge:

On March 23, 2023, Plaintiff filed this action against Defendant. (Doc. 1.) Plaintiff has not obtained a summons, filed an affidavit of service, or taken any other action to prosecute this case.<sup>1</sup> Accordingly, it is hereby:

ORDERED that, no later than July 13, 2023, Plaintiff shall submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 187 F.R.D. 503, 505 (S.D.N.Y. 1999) (internal quotation marks

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<sup>1</sup> Counsel for plaintiff called chambers in mid June indicating that he intended to seek an extension of time to serve the complaint. To date, no such request has been made, and indeed, no action has been taken in this case since March 24, 2023.

omitted). “District courts consider the diligence of plaintiff’s efforts to effect proper service and any prejudice suffered by the defendant as a consequence of the delay.” *Id.* (internal quotation marks omitted). “An attorney’s inadvertence, neglect, mistake or misplaced reliance does not constitute good cause.” *Howard v. Klynveld Peat Marwick Goerdeler*, 977 F.Supp. 654, 658 (S.D.N.Y.1997) (citing *McGregor v. United States*, 933 F.2d 156, 160 (2d Cir.1991), *aff’d*, 173 F.3d 844 (2d Cir. 1999)). Plaintiff is warned that failure to submit a letter and to demonstrate good cause for failure to serve Defendant within ninety days after the complaint was filed will result in dismissal of this action.

SO ORDERED.

Dated: June 30, 2023  
New York, New York



VERNON S. BRODERICK  
United States District Judge